

RESOLUTION NO. 75140

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) APPROVING THE SUNSHINE REFORM TASK FORCE PHASE II REPORT AND RECOMMENDATIONS ON POLICE REPORTS, POLICE DEPARTMENT STATISTICAL REPORTS AND FIRE DEPARTMENT STATISTICAL REPORTS, AS AMENDED BY THE RULES AND OPEN GOVERNMENT COMMITTEE; AND (2) DIRECTING IMPLEMENTATION OF THE APPROVED RECOMMENDATIONS ON POLICE REPORTS ON A PILOT BASIS

WHEREAS, in August 2008, the Sunshine Reform Task Force (SRTF) issued its Phase II Report and Recommendations on: (1) Ethics and Conduct; (2) Public Records; (3) Technology; and (4) Administration and Accountability; and

WHEREAS, from August 2008 through July 2009, the Rules and Open Government Committee (Rules Committee) reviewed and discussed the SRTF's Phase II recommendations and staff's response, considered current practices and heard testimony from Task Force members, other members of the public and City staff; and

WHEREAS, as needed, the Rules Committee reviewed and considered additional analysis of a number of SRTF's Phase II recommendations; and

WHEREAS, the Rules Committee made recommendations on the SRTF Phase II Report, except on the topics of police reports, Police Department statistical reports, Independent Police Auditor statistical reports and Fire Department statistical reports, and forwarded its recommendations to the City Council, and the City Council adopted Resolution No. 75091 on August 18, 2009; and

WHEREAS, the Rules Committee has now made recommendations on the SRTF Phase II Report on the topics of police reports, Police Department statistical reports and Fire Department statistical reports, and has forwarded its recommendations to the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Sunshine Reform Task Force's Phase II Report and Recommendations on the topics of police reports, Police Department statistical reports and Fire Department statistical reports, as amended by the Rules and Open Government Committee, and as set forth in Attachment 1, are hereby approved.
2. The recommendations in Attachment 1 on the topic of police reports are to be implemented on a pilot basis for one (1) year.

ADOPTED this 20th day of October, 2009, by the following vote:

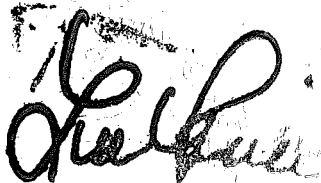
AYES: CHIRCO, CONSTANT, HERRERA, LICCARDO,
OLIVERIO, PYLE; REED.

NOES: CAMPOS, CHU, KALRA, GUYEN,

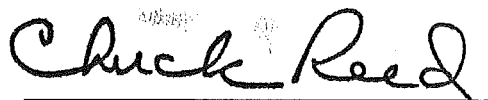
ABSENT: NONE.

DISQUALIFIED: NONE.

ATTEST:



LEE PRICE, MMC
City Clerk



CHUCK REED
Mayor

6.1 Public Information That Must Be Disclosed**6.1.1 Law Enforcement Information****6.1.1.010 Reports Prepared By Law Enforcement**

The San Jose Police Department understands that, with some exceptions, certain information must be provided about arrests, complaints and requests for service under the California Public Records Act (CPRA). In complying with the requirements of the CPRA, the Department will provide a response that contains the information required to be released under the CPRA, subject to the limitations of the CPRA and other state and federal laws. However, since the CPRA does not define clearly what constitutes the "substance" or "factual circumstances" of an arrest, complaint or request for assistance, subject to the limitations explained above, the Department proposes that the following information be provided:

Information about the "substance" of complaint or request for assistance will include:

- The type of crime or activity involved
- The actions which constitute the elements of the crime

Information about the "factual circumstances" surrounding the crime or incident will include:

- Whether the suspect is known or unknown to the victim
- Whether the crime appears to be gang-related, if the San Jose Police Department believes such disclosure is appropriate
- Whether force was used, and if so, the type of force used (e.g. physical force, baton, TASER, etc.) and the circumstances which resulted in the use of force (e.g. challenge to fight, resistance to arrest, etc.)
- Whether any specialized resources (e.g. Helicopter, K-9, MERGE, Bomb or Mounted Units, etc.) provided significant assistance
- Whether the suspect was arrested

When responding to requests for information, the Police Department will only release information that is consistent with all other obligations and limitations contained in the CPRA and in other State and federal law, including the right of privacy afforded to victims and others by the California Constitution.

6.1.1.020 General Exemptions

[Deleted – Not recommended by the Rules and Open Government Committee]

6.1.1.030 Specific Exemptions

[Deleted – Not recommended by the Rules and Open Government Committee]

**6.1.1.040 Statistical Reports Prepared by the San Jose Police
Department**

Publication of Police Department statistical reports will be deferred and the review of the type and frequency of future statistical reporting by the Police Department, along with the pending analysis and recommendations of statistical reporting by the Consortium for Police Leadership in Equity, will be referred to the Public Safety, Finance and Strategic Support Committee.

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**6.1.1.060 Statistical Reports Prepared by the San Jose Fire
Department**

Publication of Fire Department statistical reports will be deferred pending full implementation of the Fire Department Records Management System (RMS) and the review of the type and frequency of future statistical reporting by the Fire Department will be referred to the Public Safety, Finance and Strategic Support Committee.

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